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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,229	07/14/2003	Michael T. Willard	5362-000466	5821

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EXAMINER
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CHENEVERT, PAUL A

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 02/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/619,229

Applicant(s)

MICHAEL T. WILLARD

Examiner

Paul A. Chenevert

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 27 and 28 is/are allowed.
- 6) ☒ Claim(s) 1-9, 11, 15-18, 22-24, 29, 31 and 32 is/are rejected.
- 7) ☒ Claim(s) 10, 12-14, 19-21, 25, 26 and 30 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 24OCT04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Priority*

1. It is noted that this application appears to claim subject matter disclosed in prior Application No. 60/409,321, filed 10SEP02. A reference to the prior application must be inserted as the first sentence of the specification of this application or in an application data sheet (37 CFR 1.76), if applicant intends to rely on the filing date of the prior application under 35 U.S.C. 120. See 37 CFR 1.78(a). For benefit claims under 35 U.S.C. 120, the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of all nonprovisional applications. Also, the current status of all nonprovisional parent applications referenced should be included.

If the application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference to the prior application must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. A priority claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed claim for priority under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted), (2) a surcharge under 37 CFR 1.17(t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5, 8, 9, 29, & 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Schrader et al.

Schrader et al. disclose an automotive vehicle, convertible roof system comprising: a roof bow (6); a window assembly (10); and a control member (14) attaching the window assembly to the roof bow, the control member including a living hinge. In regards to claim 5, the system further includes a fabric roof cover (13). In regards to claim 8, the first two roof bows are not shown, but are inherent in this standard type of convertible vehicle.

4. Claims 18 & 22-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Tanogami.

Tanogami disclose a convertible roof comprising: a set of roof bows (12, 13); a fabric cover (1); an assembly including a substantially rigid panel (window 2); and a control link (19) attaching an upper periphery of the panel to a cross-car section of a roof bow, the control link including a hinge (18). In regards to claim 5, the system further includes a fabric roof cover (13). In regards to claim 24, the assembly includes a gasket (17) extending around the periphery of the panel.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schrader et al. in view of Hoffman.

Schrader et al. disclose a convertible roof system comprising: a roof bow; a flat window assembly; and a control member.

However, Schrader et al. do not expressly disclose that the window could be curved.

Hoffman discloses an automotive vehicle, convertible roof system comprising: a roof bow (16); a curved window assembly (9); and a control member (not labeled, but shown in Figure 7 stitched to the exterior cover) attaching the window assembly to the roof bow.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the convertible roof system of Schrader et al., to employ a curved window, as taught by Hoffman

The suggestion/motivation for doing so would have been to allow various window sizes and shapes to be employed with this device, as is desired in this vehicle invention.

Therefore, it would have been a desirable and thus a prima facie obvious modification of the convertible roof system by combining a curved window with the control member to obtain the invention as specified in claim 6, as taught by the prior references' motivation, and not hindsight from the applicants disclosure.

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7. Claims 7, 11, 15, & 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schrader et al. in view of obvious common knowledge.

Schrader et al. disclose the claimed invention except for the control member being made of a polymeric material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a polymer in the production of the flexible living hinge of the control member, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious mechanical expedient choice. *In re Leshin*, 125 USPQ 416.

8. Claims 17 & 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schrader et al., as modified, in view of Hoffman.

Schrader et al., as modified, disclose a convertible roof system comprising: a roof bow; a flat window assembly; and a control member.

However, Schrader et al., as modified, do not expressly disclose that the window could be curved.

Hoffman discloses an automotive vehicle, convertible roof system comprising: a roof bow (16); a curved window assembly (9); and a control member (not labeled, but shown in Figure 7 stitched to the exterior cover) attaching the window assembly to the roof bow.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the convertible roof system of Schrader et al., as modified, to employ a curved window, as taught by Hoffman

The suggestion/motivation for doing so would have been to allow various window sizes and shapes to be employed with this device, as is desired in this vehicle invention.

Therefore, it would have been a desirable and thus a prima facie obvious modification of the convertible roof system by combining a curved window with the control member to obtain the invention as specified in claims 17 & 31, as taught by the prior references' motivation, and not hindsight from the applicants disclosure.

***Allowable Subject Matter***

9. Claims 27 & 28 are allowed.
10. Claims 10, 12-14, 19-21, 25, 26, & 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
11. The following is an examiner's statement of reasons for allowance: the prior art does not show or make obvious Applicant's back window control link comprising: a semi-annular end section; a central section; and a back window attaching section.
12. The following is a statement of reasons for the indication of allowable subject matter: the prior art does not show or make obvious Applicant's lost-motion coupling connecting the control link to a roof bow; a control link attached to a gasket, or a flexible narrowed thickness.
13. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul A. Chenevert whose telephone number is 703-305-0837. The examiner can normally be reached on Mon-Fri (8:30-5:00).

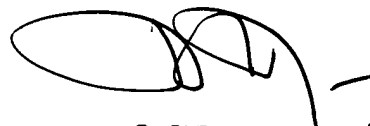
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn D. Dayoan can be reached on 703-308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paul A. Chenevert  
Examiner  
Art Unit 3612

PAC

PAC3

  
D. GLENN DAYOAN 2/9/04  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600